

**ENTERED**

March 21, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**MATTHEW WIMBERLEY, ET §  
AL., §

Plaintiffs. §

VS. §

BEAST ENERGY SERVICES, INC., §  
ET AL., §

Defendants. §

CIVIL ACTION NO. 3:19-cv-0096

**ORDER ADOPTING MAGISTRATE JUDGE'S  
MEMORANDUM AND RECOMMENDATION**

On February 24, 2021, all dispositive and non-dispositive pretrial matters in this case were referred to United States Magistrate Judge Andrew M. Edison under 28 U.S.C. § 636(b)(1)(A) and (B). *See* Dkt. 37. Judge Edison filed a memorandum and recommendation on March 4, 2022, recommending that Beast Energy Service, Inc.'s motion for summary judgment (Dkt. 44) and motion to strike the plaintiffs' summary judgment evidence (Dkt. 47) be denied. *See* Dkt. 60. Judge Edison also *sua sponte* recommended that the plaintiffs' claims against defendant Stig Gjerlaug be dismissed without prejudice for failure to prosecute. *See id.*

No objections have been filed to the memorandum and recommendation. Accordingly, the court reviews it for plain error on the face of the record. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Based on the pleadings, the record, and the applicable law, the court finds that there is no plain error apparent from the face of the record. Accordingly:

- (1) Judge Edison's memorandum and recommendation (Dkt. 60) is approved and adopted in its entirety as the holding of the court; and
- (2) Beast Energy Service, Inc.'s motion for summary judgment (Dkt. 44) and motion to strike the plaintiffs' summary judgment evidence (Dkt. 47) are denied; and
- (3) The plaintiffs' claims against Stig Gjerlaug are dismissed without prejudice for failure to prosecute.

Signed on Galveston Island this 21st day of March 2022.

  
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JEFFREY VINCENT BROWN  
UNITED STATES DISTRICT JUDGE